

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-7 are pending in the present application. Claims 1-4 are amended and Claims 5-7 are added by the present amendment.

Amendments to the claims and new claims find support in the specification and claims as originally filed, accordingly no new matter is added.

In the outstanding Office Action, an IDS was objected to; the specification was objected to; Claims 1-4 were objected to; Claims 1-4 were rejected under 35 U.S.C. § 112, second paragraph; and Claims 1-3 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,888,789 to Sakoda et al. (herein “Sakoda”) in view of U.S. Patent No. 6,404,826 to Schmidl et al. (herein “Schmidl”).

Applicants respectfully traverse the objection to the IDS filed March 21, 2002 and point out that copies of the cited references were filed with that IDS, as evidenced by the scanned copies of the cited references included in the Image File Wrapper. Accordingly, Applicants respectfully request the Examiner provide a signed copy of the form PTO-1449 indicating consideration of the references cited in the IDS filed March 21, 2002.

Further, the specification is amended to comply with suggestions in the outstanding Office Action. Accordingly, it is respectfully requested that objection be withdrawn.

Regarding the objection to the claims and the rejection of Claims 1-4 under 35 U.S.C. § 112, second paragraph, Claims 1-4 are amended to correct informalities identified in the outstanding Office Action and to more clearly recite the claimed features. Accordingly, it is respectfully requested those objections and rejections be withdrawn.

Applicants respectfully traverse the rejection of Claims 1-3 under 35 U.S.C. § 103(a) as unpatentable over Sakoda and Schmidl.

Claim 1 is directed to a method of determining transmission power of transmitted pilot symbols that includes, *inter alia*, determining a performance level to be achieved by the transmission, deducing the signal to noise ratio level introduced by the channel from the performance level to be achieved, deducing a single code transmission power Q_0 of the pilot symbols for a single spreading code from the signal to noise ratio level, deducing an increase in power α for transmitting the pilot symbols using a number of spreading codes K , and determining, at predetermined times, the transmission power Q of the pilot symbols based on the following equations:

$$Q = \alpha(K-1) + Q_0 ,$$

$$K > 1 ,$$

$$\alpha > 0 , \text{ and}$$

$$Q_0 > \alpha .$$

Applicants respectfully submit that Sakoda and Schmidl do not teach or suggest each feature of the independent claim. In particular, Sakoda and Schmidl do not teach determining the transmission power Q according to the recited equations and do not discuss or consider deducing a transmission power for multiple spreading codes based on a transmission power for a single spreading code. Further, Applicants respectfully traverse the assertion in the outstanding Office Action that it would have been obvious for one of skill in the art to combine BER measurement and TPC adjustment of Schmidl with Sakoda in order to deduce an increased transmission power according to the claimed invention.¹ As noted in MPEP 2143, the applied references must teach or suggest all the claim limitations to establish a *prima facie* case of obviousness. However, as noted in the outstanding Office Action, Sakoda does not disclose deducing the transmission power of the pilot symbols based on an increase

¹ Office Action at page 5, lines 19-22.

in power for transmitting the pilot symbols using plural spreading codes.² Further, Applicants respectfully submit that Schmidl also does not supply the claimed features lacking in the disclosure of Sakoda. Accordingly, Applicants respectfully submit that Sakoda and Schmidl, either individually or in combination, do not teach or suggest each of the features of independent Claim 1, including at least “deducing an increase in power α for transmitting the pilot symbols using a number of spreading codes” according to the equations, as recited in Claim 1.

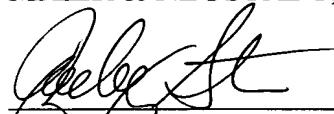
Further, Applicants respectfully submit that Sakoda and Schmidl also do not teach or suggest the features of amended Claims 2-4 or new Claims 5-7.

Accordingly, Applicants respectfully submit independent Claim 1 and claims depending therefrom are allowable.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Eckhard H. Kuesters
Attorney of Record
Registration No. 28,870

Zachary S. Stern
Registration No. 54,719

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

EHK:ZSS:dnf

I:\ATTY\ZS\21's\213\213396US\213396 AMDMENT.DOC

² Office Action at page 5, lines 8-13.